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COMMISSION ON HUMAN RIGHTS
Fifty-seventh session
Agenda items 5 and 9

THE RIGHT OF PEOPLES TO SELF-DETERMINATION AND ITS APPLICATION TO PEOPLES UNDER COLONIAL OR ALIEN DOMINATION OR FOREIGN OCCUPATION

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD

Letter dated 9 April 2001 from the Permanent Representative of Malaysia to the United Nations Office at Geneva addressed to the Chairperson of the Commission on Human Rights

I have the honour to transmit to you in my capacity as the Chairman of the Organization of the Islamic Conference in Geneva, a statement adopted by the OIC Contact Group on Jammu and Kashmir, along with a memorandum presented to the Group by the true representatives of Jammu and Kashmir. The meeting was held at the United Nations Office in Geneva on 5 April 2001.

I would be grateful if you could kindly have the statement and the memorandum* circulated as official documents of the fifty-seventh session of the Commission on Human Rights, under agenda items 5 and 9.

(Signed): RAJMAH Hussain
Ambassador
Permanent Representative
Chairperson of the Organization of the
Islamic Conference in Geneva

* Reproduced as received, in the language of submission only.

Annex

Statement on Jammu and Kashmir adopted by the OIC Contact Group on Jammu and Kashmir at its meeting during the 57th Session of the United Nations Commission on Human Rights in Geneva, April 5, 2001

The OIC Contact Group on Jammu and Kashmir, which met on the occasion of the 57th Session of the United Nations Commission on Human Rights, expressed its deep concern over the situation of Human Rights in Jammu and Kashmir. The group noted reports of gross and consistent human rights violations, beyond the so-called "non-initiation of combat operations" in Occupied Kashmir.

The Meeting was guided by all OIC Summit and Ministerial Declarations and Resolutions on Jammu and Kashmir.

The Meeting recalled UN Security Council resolutions 47(1948), 51(1948), 80(1950), 91(1951) as well as United Nations Commission for India and Pakistan resolutions of 13 August 1948 and 5 January 1949 that stipulate that the final disposition of the State of Jammu and Kashmir will be made in accordance with the will of the people expressed through the democratic method of a free and impartial plebiscite conducted under the auspices of the United Nations.

The Meeting called for an immediate end to the gross and consistent violations of human rights and, in this regard, reiterated the determination of OIC Member States to continue their efforts for the full protection of the fundamental human rights of the people of Jammu and Kashmir. It called for grant of access to international human rights bodies, the special mechanisms of CHR, and international media in Jammu and Kashmir to regularly monitor the human rights situation .

The meeting expressed support for Pakistan's repeated offer of talks to India. The Contact Group conveyed their support for the efforts of the Government of Pakistan to resolve through a serious, substantial and meaningful dialogue the Jammu and Kashmir dispute which is the basic cause of tension between India and Pakistan. The meeting welcomed the December 2, 2000 statement by Pakistan and urged an early resumption of the dialogue on all issues including the core issue of Jammu and Kashmir.

The Meeting affirmed once again the commitment of the OIC to promote a just and peaceful solution to the Jammu and Kashmir dispute in accordance with the United Nations resolutions and expressed their resolve to seek the effective realization of the right of self-determination of the Kashmiri people.

The Meeting took note of the Memorandum presented by the True Representatives of the Kashmiri people to the OIC Contact Group and decided to transmit it, along with the Statement adopted at the meeting, to the 57th UNCHR to be adopted and circulated as official documents

Memorandum presented by the True Representatives of the Kashmiri people to the OIC Contact Group on Jammu and Kashmir On April 5, 2001 during the 57th Session of the UNHCR at Geneva

We, the True Representatives of the oppressed Kashmiri people:

Recalling the relevant resolutions of the United Nations Security Council and also United Nations Commission for India and Pakistan resolutions of 13 August 1948 and 5 January 1949, upholding the right to self-determination of the people of Jammu and Kashmir;

Recalling all OIC Summit and Ministerial Resolutions and Declarations on Jammu and Kashmir;

Also recalling the Special Declaration of the Extraordinary Session of the Islamic Summit Conference on Jammu and Kashmir adopted on 23 March 1997;

Welcoming the reaffirmation of the commitment of the OIC and its Member States as reflected in the Tehran Summit Declaration of 11 December 1997 and the 25th, 26th and the 27th Islamic Conferences of Foreign Ministers held in 1998, 1999 and 2000 to promote a just and peaceful solution of the Jammu and Kashmir dispute in accordance with the relevant resolutions of the United Nations Security Council and their support to the fundamental human rights of the Kashmiri people, including their right to self-determination;

Expressing deep gratitude to the OIC and its Member States for their unequivocal support for the Kashmiri people's right to self-determination and for their condemnation of the repression and massive human rights violations in Indian occupied Jammu and Kashmir;

Rejecting Indian efforts to impose sham elections, including the so-called Panchayat elections, as they are not a substitute for the freely exercised right of the Kashmiri people to self-determination;

Categorically rejecting Preconditions imposed by India for resumption of talks particularly restricting them within framework of the Indian Constitution;

Reaffirming that any agreement on Jammu and Kashmir should be predicated on the wishes of the Kashmiri people as enshrined in the relevant UN Security Council Resolutions;

Condemning the serious crimes and atrocities, massacres, extra-judicial killings, custodial deaths, reprisal killings, arbitrary detentions, torture, burning of houses, villages and townships and the use of rape as an instrument of suppression by the Indian Government through its military and para-military personnel and mercenaries which have claimed more than 75,000 innocent lives in Jammu and Kashmir during the last eleven years;

Reaffirming the Kashmiri peoples support for multi-ethnicity and multi culturalism as essential ingredients of life in Jammu Kashmir.

Deploring the massacre of 35 Sikhs in Chattisinghpura in March 2000 and the Indian attempt to implicate in the dastardly and criminal act innocent Muslim civilians, who were killed in a fake encounter with the Indian force;

Further condemning the killings of more than a hundred civilians in Indian Occupied Kashmir in a series of attacks on August 1 and 2, 2000;

Condemning the rejection by the Indian Government of the demand for an impartial investigation into the killings at Pahalgam on August 1, 2000, most of which resulted from firing by the Indian forces;

Denouncing India's use of mercenaries and renegades for killing Kashmiris and to exploit these incidents for propaganda against the Kashmiri freedom struggle and Pakistan;

Further condemning the destruction and desecration of the Islamic holy places in occupied Kashmir by Indian forces, and the killing and persecution of Imams;

Expressing deep concern over the escalation of tensions in Kashmir as a result of Indian military operations;

Condemning the unprovoked and indiscriminate shelling by Indian Army across the Line of Control killing and injuring innocent civilians and causing damage to property;

Supporting the efforts of the Government of Pakistan for seeking a peaceful resolution of Jammu and Kashmir dispute, keeping in view the aspirations of the Kashmiri people, through all possible means including a substantive meaningful and sustained dialogue with the Indian Government;

Welcoming the December 2, 2000 statement by Pakistan announcing maximum restraint along the LoC and inviting an APHC delegation to Pakistan to prepare the grounds for tripartite talks to resolve the Kashmir dispute peacefully;

Reaffirming the right to Freedom of Movement of Kashmiri leadership as a Fundamental human right to which they are entitled under international covenants.

Expressing serious concern at the restrictions imposed on the Freedom of Movement of Kashmiri leadership especially, denial by the Indian Government to issue travel documents to the APHC delegation.

Resolve that:

a) The people of Jammu and Kashmir shall continue their just and heroic struggle for the realization of their right to self-determination as promised to them by the international community through the United Nations Security Council resolutions;

b) The will of the people of Jammu and Kashmir expressed through a free and impartial plebiscite conducted under the auspices of the UN constitutes the sole basis for the settlement of the Jammu and Kashmir dispute.

Urge the members of the OIC to:

i) Call upon India to accept Pakistan's proposal for a meaningful and substantive dialogue on the core issue of Jammu and Kashmir.

ii) Impress upon the Indian government to desist from staging and imposing a farcical political process in Indian occupied Kashmir.

iii) Once again remind the Indian government that in Resolutions 91 (1951) and 122 (1957), the UN Security Council unambiguously affirmed that 'any action that (the Indian Government) may have taken, or might attempt to take to determine the future shape and affiliation of (of Jammu and Kashmir) would not constitute a disposition of the State'.

iv) Demand that India withdraw its army of occupation from Jammu and Kashmir and fulfill its promise of holding a free and fair plebiscite in Jammu and Kashmir under UN auspices in accordance with the relevant UN Security Council resolutions and the United

Nations Commission on India and Pakistan resolutions of 13 August 1948 and 5 January 1949.

v) Call upon India to honour the commitments made by it in order to secure the early settlement of the Jammu and Kashmir issue on the basis of the wishes of the Kashmiri people as stipulated in the relevant UN Security Council resolutions.

vi) Stress upon the Indian government to put an end to state terrorism; desist from repression; halt the practice of 'crackdowns' on Kashmiris villages and urban areas; remove military pickets and troops from Kashmiri towns and villages and fully respect the religious and cultural rights of the Kashmiri people.

vii) Call upon India to respond positively to the True Representatives of the Kashmiri people call for tripartite talks to resolve the long-standing dispute of Jammu and Kashmir in accordance with the relevant resolutions of the UN Security Council.

viii) Urge India to repeal the Armed Forces (Special Powers) Act 1958, Jammu and Kashmir Disturbed Areas Act 1992, and Jammu and Kashmir Public Safety Act 1978 in IOK, as these draconian laws give the security forces wide powers of arrest and detention and virtual impunity to commit human rights violations.

ix) Further call upon India to allow unhindered access to major Human Rights NGOs such as Amnesty International, Human Rights Watch and others to monitor and document the human rights situation in Jammu and Kashmir.

x) Urge the United Nations Commission on Human Rights to appoint a Special Rapporteur on Jammu and Kashmir.

xi) Request the OIC to renew to the Government of India its readiness to send its fact-finding and good offices missions to Jammu and Kashmir.

xii) Request the OIC Secretary General to appoint a Special Representative on Jammu and Kashmir in accordance with the OIC resolutions, adopted at the 26th ICFM at Ouagadougou and at the 27th ICFM in Kuala Lumpur, without further delay and dispatch him on a fact-finding mission to Kashmir.

xiii) Request the OIC Secretary General to convey the OIC resolutions on Jammu and Kashmir dispute to the Indian Government, the UN Secretary General, the governments of P-5 and President of the UN Security Council in order to convey the Islamic world's concern over the situation in Jammu and Kashmir and seek their role in its resolution.

xiv) Further request the OIC Secretary General to include the Kashmir dispute in the agenda of OIC's dialogue with regional and international organizations such as the UN and EU.

xv) Urge the United Nations to hold a plebiscite in Jammu and Kashmir, without further delay, in accordance with the UN Security Council resolutions.

xvi) Support that leaders of All Parties Hurriyet Conference and Kashmiri Human Rights activists should be declared as "Internationally Protected Persons".

xvii) Support the right of Freedom of Movement of Kashmiri people and the leaders of All Parties Hurriyet Conference and seeks their guaranteed protection.

xviii) Extend all possible humanitarian assistance to the people of Kashmir.

xix) Encourage the OIC to play a more active role, including humanitarian help to Kashmiri widows and children.

Appeal to all peace loving people and the nations of the world in general, and the Islamic Ummah in particular, to, urge the Indian Government to put an end to the egregious violations of the human rights of the Kashmiris, and help and support the people of Jammu and Kashmir in their struggle for the realization of their right to self-determination as promised to them under the relevant UN Security Council Resolutions.

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Agenda item 11 (b)

CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTIONS OF: DISAPPEARANCES AND SUMMARY EXECUTIONS

Letter dated 6 April 2001 from the Permanent Representative of Singapore to the United Nations Office at Geneva addressed to the Chairperson of the Commission on Human Rights

I have the honour to refer to the report of the Special Rapporteur on extrajudicial, summary or arbitrary executions (E/CN.4/2001/9), which was submitted to the Commission on Human Rights at its fifty-seventh session.

I enclose a letter dated 6 April 2001* I sent to the Special Rapporteur and would request that it be circulated as an official document of the fifty-seventh session of the Commission on Human Rights under item 11 (b).

(Signed): SEE Chak Mun
Ambassador
Permanent Representative

* Reproduced as received, in the language of submission only.

Annex

PERMANENT REPRESENTATIVE
OF THE REPUBLIC OF SINGAPORE
TO THE UNITED NATIONS
Phone: (4122)929 6644
Fax: (4122) 929 6658

6 April 2001

Ms Asma Jahangir
UN Special Rapporteur
on Extrajudicial, Summary or Arbitrary Executions
c/o Office of the United Nations High Commissioner
for Human Rights
Palais Wilson
51 rue des Pâquis
1201 Geneva

Dear Ms Jahangir

With reference to your report on Extrajudicial, Summary or Arbitrary Executions (E/CN.4/2001/9), which was submitted to the 57th Session of the Commission on Human Rights (CHR) pursuant to CHR resolution 2000/31, I would like to make the following comments.

(a) In para 94, it was said that the absence of the death penalty in the Rome Statute of the International Criminal Court is an example of the growing international consensus in favour of abolition. This has ignored the fact that in his statement to the plenary of the Rome Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court on 17 July 1998, the President of the Conference declared that the debate at the Conference on the issue of which penalties should be applied by the Court showed that there is no international consensus on the inclusion or non-inclusion of the death penalty, and further that not including the death penalty in the Rome Statute would not in any way have a legal bearing on national legislations and practices with regard to the death penalty, nor should it be considered as influencing, in the development of customary international law or in any other way, the legality of penalties imposed by national systems for serious crimes.

(b) Consensus in the international community is not a question of 50% plus one. The statement that more than half of all countries have abolished the death penalty glosses over the fact that a significant number of countries retain it among their laws. The Second Optional Protocol to the International

Covenant on Civil and Political Rights has only been ratified by a minority of states. There is therefore no international consensus either for or against capital punishment. This view was reflected in the joint statement contained in the document E/CN.4/2000/162 in which 51 delegations disassociated themselves from CHR resolution 2000/65. This view was also reflected in (i) the joint statement contained in ECOSOC document E/1999/113 in which 50 delegations disassociated themselves from CHR resolution 1999/61, (ii) the joint statement contained in document E/1998/95 in which 54 delegations disassociated themselves from CHR resolution 1998/8, (iii) the joint letter contained in document E/CN.4/1998/156 in which 51 delegations expressed their reservations prior to the adoption of CHR resolution 1998/8 and (iv) the joint statement contained in document E/1997/106 in which 34 delegations disassociated themselves from a similar CHR resolution 1997/12.

(c) The Report also completely ignores the position of those delegations that the death penalty is primarily a criminal justice issue, and therefore is a question for the sovereign jurisdiction of each country. Nor does it consider the point that the right to life is not the only right, and that it is the duty of societies and governments to decide how to balance competing rights against each other.

2 I sincerely hope that the above comments would be taken into consideration in future reports.

With best wishes

Yours sincerely

SEE CHAK MUN

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Agenda item 9

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD

Note verbale dated 5 April 2001 from the Permanent Mission of Israel to the United Nations Office at Geneva addressed to the Secretariat of the Commission on Human Rights

The Permanent Mission of Israel to the United Nations Office and other International Organizations in Geneva presents its compliments to the secretariat of the fifty-seventh session of the Commission on Human Rights and has the honour to communicate the following information regarding the upcoming vote under item 9 on draft resolution E/CN.4/2001/L.2, entitled Human rights situation of the Lebanese detainees in Israel:

In the last few days, during the debate in the Commission on Human Rights, claims were made by the Lebanese representative alleging that Israel has failed to disclose information regarding the location of mines in southern Lebanon, and has failed to hand over maps of such minefields. Unfortunately, these allegations were made with the full knowledge that they are completely and utterly false, with the intention of deliberately misleading this forum.

On 24 May 2000, Israeli forces withdrew from southern Lebanon in accordance with United Nations Security Council resolution 425. Less than a week after the withdrawal, on 1 June 2000, Israeli Defense Force Liaison to the United Nations Forces met with Lt. Col. Mishio of the United Nations Interim Force in Lebanon for the purpose of handing over files containing information and maps of mines and clusters laid by IDF. Additional assistance was offered should UNIFIL require it.

The confirmation of transfer of the files, attached herewith,* clearly demonstrates that the Lebanese claims do not conform to the actual course of events.

* Reproduced as received, in the language of submission only.

Two additional points should be emphasized regarding the issue of mines in southern Lebanon. First, during the past few decades, southern Lebanon was, and continues to be, a hotbed for terrorist activity. Among other things, terrorist groups such as the Hezbollah, placed large quantities of mines and booby-traps in the area. Needless to say, these mines and booby-traps were never marked, mapped or reported. In many cases, passers-by were killed, or severely injured, after stepping unsuspectingly on seemingly innocent grounds. Today these mines and booby-traps continue to pose a threat to the civilian population in Lebanon.

Second, under the United Nations Security Council resolution and under international law, after Israel's withdrawal from southern Lebanon, it is the responsibility of the Government of Lebanon to establish effective authority and control over the area. Security Council resolutions 1310 and 1337 recently confirmed Israel's withdrawal in conformity with resolution 425, whilst reiterating Lebanon's yet-unfulfilled responsibilities. Lebanon has failed to meet its internationally recognized duties. Accordingly, it should come as no surprise that the minefields, which were formerly clearly marked, might have deteriorated and could, therefore, pose a threat to the population at large.

The Permanent Mission of Israel requests that this document be circulated as an official document of the fifty-seventh session of the Commission on Human Rights.

IDF Liaison to UN Forces
Lebanon (Rosh Hanigra)

Subject: **Delivery of files about Minefields in South Lebanon**

IDF Liaison by here delivers to UNIFIL the files with details that include:

1. Minefield layouts on the international border bypasses.
2. A list of clusters that were placed by IDF.
3. A list of trappings in the I.C.A.
4. Minefield layouts of positions in the I.C.A.

The files are to be used by UNIFIL for the force's activities during their redeployment , and to enhance the safety of the local population in South Lebanon.
If UNIFIL engineers have questions regarding the files, a meeting will be arranged between IDF and UNIFIL professional representitives.

UNIFIL Representative who Received the Files

Name and duty: LT COL DK MISHIO (SOO)

Date: 1 JUNE 2000

Location: ROSH HANIGRA

Signature:

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Fifty-seventh session
Agenda item 9

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD

Letter dated 9 April 2001 from the Permanent Representative of Armenia to the United Nations Office at Geneva addressed to the Chairperson of the Commission for Human Rights

In the course of the consideration of agenda item 9 of the Commission, the delegation of Azerbaijan referred in its statement to the 1992 Khojalu events.

This subject has also been mentioned in the Commission's documents E/CN.4/2001/107, 131 and 135 circulated in Azerbaijan under the above-mentioned agenda item.

I would be grateful if you could circulate the present letter and the attached information* as an official document of the fifty-seventh session of the Commission on Human Rights.

(Signed): Karen NAZARIAN
Ambassador
Permanent Representative

* Reproduced as received, in English and Russian only.

Annex

The truth about the events in Khojaly

Evidence from Azerbaijani sources

For nine years after the events in Khojaly official Baku has been obstinately fanning anti-Armenian hysteria with the aim of falsifying the real events and discrediting the Armenian people in the eyes of the international community.

The events in Khojaly, which led to the deaths of civilians, were the result solely of political intrigues and a struggle for power in Azerbaijan.

The real reasons are most convincingly reflected in the accounts of Azerbaijanis themselves - as participants in and eyewitnesses of what happened - as well as of those who know the whole inside story to the events in Baku.

According to Azerbaijani journalist M. Safarogly, "Khojaly occupied an important strategic position. The loss of Khojaly was a political fiasco for Mutalibov".[1]

Khojaly, along with Shusha and Agdam, was one of the main strongholds from which Stepanakert, the capital of the Nagorny Karabakh Republic, was shelled continuously and mercilessly for three winter months using artillery and missiles and launchers for targeting cities.

Knocking out the weapon emplacements in Khojaly and freeing the airport were the only way for the inhabitants of the Nagorny Karabakh Republic to ensure the physical survival of a population condemned by Azerbaijan to complete annihilation. The daily shelling of Stepanakert from nearby Khojaly took the lives of hundreds of peaceful inhabitants - women, children and old people.

Former President of Azerbaijan, Ayaz Mutalibov, has emphasized that "... the assault on Khojaly was not a surprise attack".[2] In a "Nezavisimaya gazeta" newspaper interview he stated that "a corridor was kept open by the Armenians for people to leave".[3] However, a column of civilians was fired on by armed units of the Popular Front of Azerbaijan on the approaches to the Agdam district border, a fact later confirmed by Ayaz Mutalibov, who linked this criminal act to attempts by the opposition to remove him from power, and blamed it entirely for what happened.

In his recent interview with the "Novoye vremya" magazine, Mutalibov confirms his statement of nine years ago: "The shooting of the Khojaly residents was obviously organized by someone to take control in Azerbaijan".[4]

Similar comments and views concerning the events in Khojaly are known to have been made by several other highly-placed Azerbaijani officials and journalists.

There is, moreover, the conclusion of Azerbaijani journalist Arif Yunusov, which differs somewhat from the previous statements: "The town and its inhabitants were deliberately sacrificed for a political purpose - to prevent the Popular Front of Azerbaijan from coming to power".[5] In this case, though, the Azerbaijanis themselves are named as the perpetrators of the tragedy.

What resulted from the betrayal of the inhabitants of Khojaly by their own highly-placed compatriots is well known. Azerbaijani propaganda has railed to the whole world about the "atrocities of the Armenians", supplying television stations with horrendous pictures of a field strewn with mutilated bodies. Khojaly is claimed to have been "the Armenians' revenge for Sumgait".

Tamerlan Karayev, at one time Chairman of the Supreme Council of the Azerbaijan Republic, bears witness: "The tragedy was committed by the authorities of Azerbaijan", and specifically by "someone highly placed".[6]

The Czech journalist Jana Mazalova, who by an oversight of the Azerbaijanis was included in both of the groups of press representatives to be shown the "bodies mutilated by the Armenians", noted a substantial difference in the two cases. When she went to the scene immediately after the events, Mazalova did not see any traces of barbarous treatment of the bodies. Yet a couple of days later the journalists were shown disfigured bodies already "prepared" for pictures.

Who killed the peaceful inhabitants of Khojaly and then mutilated their bodies, if the tragedy occurred not in a village taken by Armenians or on the route of the humanitarian corridor, but on the approaches to the town of Agdam - on territory fully controlled by the Popular Front of Azerbaijan?

The independent Azerbaijani cameraman Chingiz Mustafayev, who took pictures on 28 February and 2 March 1992, had doubts about the official Azerbaijani version and began his own inquiry. The journalist's very first report to the Moscow news agency "D-press" on the possible complicity of the Azerbaijani side in the crimes cost Mustafayev his life: he was killed not far from Agdam, under circumstances that are still unexplained.

The current President of Azerbaijan, Heydar Aliyev, himself recognized that Azerbaijan's "former leadership were also guilty" of the events in Khojaly. Already in

April 1992, according to the agency Bilik-Dunyasy, he had commented as follows: "The bloodshed will be to our advantage. We should not interfere in the course of events". To whose "advantage" was the bloodletting is clear to everyone. "Megapolis-Express" wrote: "It cannot be denied that if the Popular Front of Azerbaijan actually set far-reaching objectives, they have been achieved. Mutalibov has been compromised and overthrown, public opinion worldwide has been shaken, and the Azerbaijanis and their Turkish brethren have believed in the so-called "genocide of the Azerbaijani people in Khojaly".[7]

One other tragic detail. It has become clear since the events that 47 Armenian hostages were already being held on 26 February in "peaceful" Khojaly, a fact that the Azerbaijani mass media "covering" the tragedy have failed to mention. After the liberation of Khojaly only 13 hostages (including 6 women and 1 child) were found there, the other 34 having been taken away by the Azerbaijanis to an unknown location. The only thing known about them is that they were led from the village on the night of the operation, but never reached Agdam. There is still no information concerning what eventually happened to them or confirming that they continued to be held captive by the Azerbaijanis.

Obviously, those who wanted to create the impression that bodies had been mutilated by the Armenians first of all disfigured the bodies of those same Armenian hostages, in order to make it impossible to identify them. Precisely for that purpose the outer clothing was removed from many of the bodies, and precisely for that reason the bodies of the unfortunate victims were damaged so badly that they became unrecognizable.

In the light of the above facts it may confidently be said that the killing of peaceful inhabitants of the village of Khojaly and of the Armenian hostages being held there was the work of the Azerbaijani side, which committed this crime against its own people in the name of political intrigues and the struggle for power.

Notes

[1] "Nezavisimaya gazeta" newspaper, February 1993.

[2] "Ogonek" magazine, Nos. 14-15, 1992.

[3] "Nezavisimaya gazeta" newspaper, 2 April 1992.

[4] "Novoye vremya" newspaper, 6 March 2001.

[5] "Zerkalo" newspaper, July 1992.

[6] "Mukhalifat" newspaper, 28 April 1992.

[7] "Megapolis-Express", No. 17, 1992.

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THE RIGHT OF PEOPLES TO SELF-DETERMINATION AND ITS APPLICATION TO PEOPLES UNDER COLONIAL OR ALIEN DOMINATION OR FOREIGN OCCUPATION

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD

Letter dated 17 April 2001 from the Permanent Representative of India to the United Nations Office at Geneva addressed to the Chairman of the Commission on Human Rights

We have seen a letter of 9 April 2001 addressed to you by the Permanent Representative of Malaysia transmitting, in her capacity as the Chairman of the Organization of the Islamic Conference in Geneva, a statement adopted by the "OIC Contact Group on Jammu and Kashmir", along with a memorandum presented to this Group by the self-styled "True Representatives of Jammu and Kashmir".

The OIC Contact Group has no locus standi to circulate papers on the internal affairs of my country.

GE.01-13069 (E)

In a democracy, representatives of the people can only be elected by the people themselves; they can neither be self-appointed nor designated by foreign countries. It is highly ironical that an organization supported and sustained by the terrorist activities of its foreign mentors claims to represent the people in a state of India. The State of Jammu and Kashmir has a popularly elected government, which enjoys the mandate of the people of Jammu and Kashmir.

The Government of India totally rejects the baseless allegations contained in the statement and the memorandum referred to above.

I would like to request that this letter be circulated as an official document of the fifty-seventh session of the Commission on Human Rights under agenda items 5 and 9.

(Signed) Savitri KUNADI
Ambassador

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COMMISSION ON HUMAN RIGHTS
Fifty-seventh session
Agenda item 14 (d)

SPECIFIC GROUPS AND INDIVIDUALS: OTHER VULNERABLE GROUPS AND INDIVIDUALS

The protection of human rights in the context of HIV/AIDS

Paper submitted by the International Labour Organization

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I. INTERNATIONAL GUIDELINES ON HIV/AIDS AND HUMAN RIGHTS

1. In September 1996, the Office of the United Nations High Commissioner for Human Rights and UNAIDS adopted 12 International Guidelines on HIV/AIDS and Human Rights designed to help ensure that international standards are observed at the country level. The Commission on Human Rights explicitly recognized the mandates of the United Nations agencies in promoting the implementation of the Guidelines.

2. In its resolution 1999/49 of 27 April 1999, the Commission on Human Rights requested that the Secretary-General solicit comments from Governments, United Nations organs, programmes and specialized agencies, and international and non-governmental organizations, including the ILO, regarding the steps that they have taken to promote and implement the International Guidelines on HIV/AIDS and Human Rights, and to submit a report[1] for consideration at the fifty-seventh session of the Commission.

II. STEPS TAKEN BY THE ILO TO PROMOTE AND IMPLEMENT THE GUIDELINES ON HIV/AIDS (AS REPORTED TO THE SECRETARY-GENERAL IN NOVEMBER 2000)

(a) Regional Tripartite Workshop on Strategies to tackle the Social and Labour Implications of HIV/AIDS (October 1999)

3. Involved the participation of African Governments and representatives of workers' and employers' organizations from some 20 countries;

Concluded a draft Platform of Action on HIV/AIDS in the context of the world of work in Africa.

(b) Ninth ILO African Regional Meeting (Abidjan, December 1999)

4. At this meeting, African labour ministers:

Called on member States and the ILO to implement the Platform of Action on HIV/AIDS as a matter of urgency;

Emphasized the collective responsibility of Governments and employers' and workers' organizations in the fight against HIV/AIDS, reflecting:

The urgent need to educate workers on the basic facts about HIV/AIDS and their rights;

The need to raise awareness among employers of the need to accord HIV/AIDS a corporate priority;

The need to increase overall government awareness of the negative impact of the epidemic on development efforts.

(c) Special High-level Meeting on HIV/AIDS and the World of Work (June 2000)

5. The International Labour Conference adopted a resolution concerning HIV/AIDS and the world of work (see appendix).

(d) ILO Programme on HIV/AIDS and the World of Work: created to implement the above-mentioned resolution (November 2000)

6. The main objectives of the Programme are:

To help member States to combat the spread and threat of HIV/AIDS through workplace initiatives, cope with its consequences, and provide protection and support to workers and their families affected by the epidemic.

7. It is hoped that the new ILO Programme, using a rights-based approach, will:

Increase awareness about the implications of HIV/AIDS for the world of work, with a particular focus on employment, productivity and social security.

Improve the capability of ILO's tripartite constituents to design and implement appropriate policies and programmes for combating HIV/AIDS and its effects on the workplace, including issues of stigmatization and discrimination.

Identify strategies and policy options to create practical measures which can be easily implemented in the workplace with the aim of preventing the spread of the epidemic.

8. These steps taken by the ILO to apply the International Guidelines on HIV/AIDS and Human Rights are rooted in the framework of the ILO's Labour Standards, its "decent work" approach, the Declaration on Fundamental Principles and Rights at Work, and the forthcoming Code of Practice on HIV/AIDS and the World of Work, all of which promote respect for human rights in the context of HIV/AIDS.

III. DECENT WORK: THE PRIMARY GOAL OF THE ILO

9. The primary goal of the ILO today is:

"To promote opportunities for women and men to obtain decent and productive work, in conditions of freedom, equity, security and human dignity."[2]

10. The ILO has four strategic objectives for putting decent work into practice:

A standards approach to fundamental principles and rights;

Employment and job creation;

Social protection for all workers and their families;

The promotion of tripartism and social dialogue.

11. The HIV/AIDS pandemic and its impact on the world of work are a major threat and a barrier to fulfilling the objectives of the ILO's decent work development agenda. The ILO intervention will emphasize, through advocacy at the highest level, the need to protect the rights of people living with HIV/AIDS. The impact of HIV/AIDS on gender equality, access to social protection and child labour and the action that the ILO is undertaking in those fields will be examined in this section.

(a) Gender equality

12. HIV/AIDS is a threat to gender equality. Women are highly vulnerable to HIV/AIDS for both biological and cultural reasons:

Women are particularly affected when a male head of household falls ill;

The burden of caring for children orphaned as a result of the pandemic is borne mainly by women;

Loss of income from a male income-earner may compel women to seek other sources of income, putting them at risk of sexual exploitation.

13. The principle of gender equality in employment will be connected more explicitly to the subordinate status and role of women and girls in society and in the family, as women's lack of power is directly associated with their higher exposure to infection by the disease. The ILO's influence at the workplace, particularly through the mobilization of the social partners, will be critical in helping to develop values and attitudes that discourage the spread of HIV/AIDS and provide a safe environment for the promotion of a change in attitude and behaviour, especially of men.

(b) Social protection

14. Social security is a human right that is acknowledged in:

The Universal Declaration of Human Rights (arts. 22 and 25);

The International Covenant on Economic, Social and Cultural Rights (art. 7);

Several ILO Conventions.

(i) The HIV/AIDS pandemic: a dramatic challenge facing social security

15. The HIV/AIDS pandemic is the most dramatic of the challenges facing social security in certain countries, notably in Africa. The pandemic underlines the gravely inadequate nature of social protection systems in the countries most affected. People living with HIV/AIDS are often

forced to leave jobs and are isolated in their communities, with limited opportunities to earn an income. In the absence of adequate public support systems, especially in the developing countries, families have to bear the full cost of the disease, pushing them deep into poverty.

(ii) Effective social protection for all: an essential feature of the ILO decent work approach

16. As mentioned previously, one of the essential features of the ILO decent work approach is that everybody is entitled to basic social protection. The official goal of the ILO in this field is, therefore, effective social protection for all. This goal is far from being achieved.

17. Referring to the HIV/AIDS pandemic, the report to the eighty-ninth session of the International Labour Conference held in 2001, entitled "Social security: Issues, challenges and prospects" underlines that:

> "International solidarity is urgently needed to back up national efforts - particularly to help in prevention campaigns and to assist in the provision of health care. Partnerships must be developed between the competent health authorities, governmental and non-governmental organizations and the drug industry to ensure a supply of medication which, if international prices were charged, would be totally beyond the reach of patients in certain communities."[3] [...] In a globalizing world, where people are increasingly exposed to global economic risks, there is growing consciousness of the fact that a broad-based national social protection policy can provide a strong buffer against many of the negative social effect of crises. However, such a policy might need to be complemented by new international and possibly global financing mechanisms [...] as proposed by the recent 'Social Summit+5' Special Session of the United Nations General Assembly in Geneva. These proposals concern, inter alia, the possible establishment of a (voluntary) World Solidarity Fund, international cooperation in tax matters, debt relief, living up to development aid commitments and the provision of more concessional financing."[4]

(c) Child labour

18. There is increasing evidence of the devastating economic and social impact of HIV/AIDS in countries with high infection rates. Rising levels of child labour is strongly assumed to be one of its consequences. Infection often results in the exacerbation of poverty for the victim's household. Children may be withdrawn from school and forced into the labour market in order to contribute to family income, or to ensure their own survival. With the loss or illness of their parents, many children are forced to become the head of the household and find ways to provide for more needy siblings.

19. While there is a strong assumption that the HIV/AIDS epidemic contributions to child labour, very few comprehensive studies have been carried out to explore the different aspects of the link between the two. The ILO will undertake research and carry out surveys in Tanzania, South Africa, Zambia and Zimbabwe. These countries were selected because of their relatively high HIV/AIDS infection rates and because they have established child labour programmes and participate in IPEC.[5] The projects will provide an improved understanding of the correlation

between HIV/AIDS and child labour, concentrating especially on school drop-out rates, entry into the worst forms of child labour and HIV/AIDS. They will also help to improve understanding of the extent to which development efforts have been set back by HIV/AIDS.

IV. ILO AND A RIGHTS-BASED APPROACH TO COMBAT HIV/AIDS IN THE WORLD OF WORK

(a) Protection of human rights: a core principle in the prevention of HIV/AIDS

20. The ILO subscribes to the principle that the protection of human rights, and particularly protection against discrimination, is a core principle for the prevention of HIV/AIDS. According to the document for discussion at the Special High-Level Meeting on HIV/AIDS and the World of Work:

> "From an ILO perspective, discrimination - especially discrimination in the world of work - is one of the most significant human rights abuses in the area of HIV/AIDS. The rights of people living with HIV/AIDS, such as the right to non-discrimination, equal protection and equality before the law, privacy, liberty of movement, work, equal access to education, housing, health care, social security, assistance and welfare, etc., are often violated on the sole basis of their known or presumed HIV/AIDS status. Moreover, individuals who suffer discrimination and lack of respect for their human rights are both more vulnerable to becoming infected and less able to cope with the burdens of HIV/AIDS. People exposed to HIV will not seek testing, counselling, treatment or support if this means facing discrimination, lack of confidentiality, loss of employment or other negative consequences. [....] Experience has also shown that the incidence and spread of HIV/AIDS is significantly higher among groups which already suffer from a lack of respect of their human rights and from discrimination, or which are marginalized because of their legal status. These include women, children, people living in poverty, minorities, indigenous peoples, migrants, people with disabilities, sex workers, homosexuals, injecting drug users and prisoners."[6]

(b) Consequences of the lack of respect for human rights

21. Human rights issues become more critical in crisis situations. The HIV/AIDS crisis is no exception. A lack of respect for human rights fuels the pandemic in at least three ways.[7]

Discrimination increases the impact of the disease on people living with HIV/AIDS and those presumed to be infected, as well as on their families and associates;

People are more vulnerable to infection when their economic, social or cultural rights are not respected;

Where civil and political rights are not respected, it is difficult for civil society to respond effectively to the epidemic.

(c) Instruments promoting a rights-based approach

22. This rights-based approach to combat HIV/AIDS at the workplace is promoted through different instruments of the ILO, namely:

The Declaration on Fundamental Principles and Rights at Work and its follow-up.

Conventions regarding labour standards related to the problem of HIV/AIDS.

The Code of Practice on HIV/AIDS and the World of Work (to be submitted to a meeting of experts for adoption in May 2001).

V. DECLARATION ON FUNDAMENTAL PRINCIPLES AND RIGHTS AT WORK AND ITS FOLLOW UP, 1998

(a) Goal

To reaffirm the immutable nature of the fundamental principles and rights embodied in the ILO Constitution and in the Declaration of Philadelphia;

To promote the universal application of these principles and rights.

23. The Declaration states that, in freely joining the ILO, all members have endorsed the principles and rights set out in the Constitution and in the Declaration of Philadelphia, and have undertaken to work towards attaining the overall objectives of the Organization.

(b) Fundamental principles and rights

Freedom of association and the effective recognition of the right to collective bargaining;

Elimination of all forms of forced or compulsory labour;

Effective abolition of child labour;

Elimination of discrimination in respect of employment and occupation.

24. The right to non-discrimination in respect of employment and occupation is particularly relevant in the fight against the HIV/AIDS pandemic, and the implementation of the other rights and principles contained in the Declaration can be useful to reduce the pandemic.

(c) Fundamental Conventions

25. These principles and rights at work have been expressed and developed in eight Conventions which are recognized as fundamental by the international community and the ILO:

Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87) and Right to Organize and Collective Bargaining Convention, 1949 (No. 98)

Forced Labour Convention, 1930 (No. 29) and the Abolition of Forced Labour Convention, 1957 (No. 105)

Minimum Age Convention, 1973 (No. 138) and the Worst Forms of Child Labour Convention, 1999 (No. 182)

Equal Remuneration Convention, 1951 (No. 100) and the Discrimination (Employment and Occupation) Convention, 1958 (No. 111)

(d) In the absence of ratification

26. While the above-mentioned Conventions have been widely ratified, the Declaration states that all Members, even if they have not ratified the fundamental Conventions, have an obligation arising from the very fact of membership in the Organization to respect, promote and to realize, in good faith and in accordance with the Constitution, the principles concerning the fundamental rights which are subject of those Conventions.

27. The principle of non-discrimination in respect of employment and occupation is among these fundamental principles, and HIV/AIDS policies adopted by the member States should be based on that common value, even if they have not ratified Convention No. 111.

(e) Follow-up

28. In order to give it full effect, the Declaration contains a follow-up which:

Encourages the efforts made by member States to promote the fundamental principles and rights reaffirmed in the Declaration;

Helps to identify areas calling for technical assistance from the ILO or other sources to help member States to implement the fundamental principles and rights.

29. Two tools help to give effect to the Declaration:

(i) **Annual Review**. This tool is composed of annual reports from member States that have not ratified one or more of the ILO fundamental Conventions. They provide a baseline against which each country can measure its progress towards achieving respect for the principles and rights. Employers' and workers' organizations may also provide information on the State's progress on implementing the Declaration.

(ii) **Global report**. This provides information on trends and developments around the world. It focuses on one category of principles and rights each year, and covers all member States, regardless of whether they have ratified the relevant Conventions. Thus, in a four-year period, all four categories of principles and rights will have been examined.

(f) Relation between the Declaration, its follow up and ILO standards and supervisory procedures

30. The Conventions and Recommendations adopted by the International Labour Conference are international treaties that, once they have been ratified by a country, create obligations under international law. They are subject to regular and detailed supervision, and problems raised in their application give rise to assistance from ILO.

31. The Declaration takes the form of a "political track" which supports the "legal track" of the Conventions.

32. Technical cooperation is the principal instrument through which the Declaration will be realized universally. It supports the following efforts:

Promoting ratification and implementation of the fundamental Conventions;

Assisting member States which are not yet in a position to ratify, to respect, promote and realize the principles that are the subject of those Conventions;

Helping member States to create a climate conducive to economic and social development, based on respect for the fundamental principles and rights at work.

33. In the context of HIV/AIDS, the Declaration can be used, in particular, to promote the principle and right to equality in respect of employment and occupation contained in Convention No. 111.

VI. RELEVANT ILO CONVENTIONS TO COMBAT THE HIV/AIDS PANDEMIC AT WORK

34. While there is no international labour Convention or Recommendation that specifically addresses the issue of HIV/AIDS in the workplace, many instruments exist which cover both protection against discrimination and the prevention of infection and which can be and have been used. It is important to remember that the Conventions are only binding if the States have ratified them. Following is a brief look at the Conventions that are particularly relevant to the promotion of respect for human rights in the context of HIV/AIDS at work:

(a) Equality of opportunity and treatment in employment

(i) Convention No. 111: a key instrument

35. Convention No. 111 concerning discrimination in respect of employment and occupation is a key instrument on the right to equality at work:

One of the eight fundamental Conventions;

Ratifying States[8] must respect the right to non-discrimination, which is the subject of this Convention.

(ii) Principle of the Convention

36. The Convention prohibits any distinction, exclusion or preference which has the effect of nullifying or impairing equality of opportunity or treatment in employment and occupation which includes access to training, access to jobs, promotion processes, security of tenure, remuneration and terms and conditions of employment including leave, rest periods, occupational safety and health measures and social security benefits.

(iii) Grounds of discrimination

37. The grounds on which the Convention prohibits discrimination are:

Race, colour, sex, religion, political opinion, national extraction and social origin;

The Convention permits ratifying States to add additional grounds, after consulting workers' and employers' organizations (art.1 (1) (b)).

The Committee of Experts on the Application of Conventions and Recommendations

38. The Committee of Experts on the Application of Conventions and Recommendations has recommended,[9] and the Governing Body has been discussing, the elaboration of an additional Protocol to Convention No. 111 which could cover, among other new grounds, HIV/AIDS.

39. In its 1996 Special Survey on equality,[10] the Committee of Experts noted a tendency among employers to screen workers systematically for HIV infection, without their knowledge, either prior to recruitment or as part of regular occupational health examinations. The Committee stated that there was no doubt that such practices open the way to discrimination in access to and retention of employment. The Committee underlined that protective provisions as regards HIV/AIDS are necessary in order to prohibit the screening of workers without their consent as well as to maintain the confidentiality of the results of examinations that may be carried out for reasons of public health.

40. The Committee of Experts has already accepted that the prohibition of discrimination contained in the Convention may be extended to the area of HIV/AIDS, when it examined comments submitted by Spanish trade unions in relation to direct workplace discrimination, and when welcoming Costa Rica's new AIDS Decree No. 27894-S of 3 June 1999, a model of its kind in banning discrimination and encouraging preventive measures in the world of work.

Member States

41. It is interesting to note that many Governments, in their annual reports under the *Follow-up to the ILO Declaration on Fundamental Principles and Rights at Work*, mentioned HIV/AIDS as grounds on which discrimination is prohibited despite the fact that it is not listed in Convention No. 111.[11]

(iv) Promotion of pro-active measures

42. Convention No. 111 also promotes proactive measures designed to meet the particular requirements of persons requiring special protection. Persons with disabilities are listed among the groups that might benefit from affirmative action or measures of accommodation at the workplace. Recommendation No. 111, which accompanies the Convention, suggests the creation of appropriate agencies and advisory committees, composed of representatives of employers' and workers' organizations and of other interested bodies, to promote acceptance of the principle of non-discrimination in employment and to carry out specific activities such as information and education campaigns.

(b) Termination of Employment

(i) The Termination of Employment Convention, 1982 (No. 158)

43. The Termination of Employment Convention, 1982 (No. 158) sets out the international position concerning possible dismissals:

> Termination of employment can take place only when there is a valid reason connected with the capacity or conduct of the worker, or based on the operational requirements of the undertaking, establishment or service (art. 4);
>
> Temporary absence from work because of sickness or injury, whether work-related or not, is not a valid reason for dismissal (art. 6). Both these provisions are relevant for HIV/AIDS sufferers.

(ii) Statement from the consultation on AIDS and the workplace, Geneva, 27-29 June 1988 (WHO in association with ILO)

44. The principles and rights related to termination of employment in Convention No. 158 are also contained in the WHO/ILO statement. According to this statement, HIV infection is not a cause for termination of employment; persons with HIV-related illnesses should be able to work as long as they are medically fit for available and appropriate work.

45. This statement recommends that:

> Workers infected with HIV who are in good health be treated in the same way as other workers;
>
> Workers with HIV-related illnesses, including AIDS, be treated the same as any other workers suffering from ill-health.

Committee of Experts on the Application of Conventions and Recommendations

46. In its general survey of 1995 on the "Protection against unjustified dismissal",[12] the Committee of Experts on the Application of Conventions and Recommendations recalled the WHO/ILO statement.

47. The Committee deemed it particularly important to weigh and evaluate carefully the repercussions that absences of this kind may have in practice on the operation of the enterprise, bearing in mind the difficult consequences that termination of employment can entail for the worker.

(c) Occupational safety and health benefits

48. The social security instruments of the ILO provide guidance on HIV/AIDS issues from the point of view of benefit entitlements for occupational injury through the Employment Injury Benefits Convention, 1964 (No. 121) and through the principle of non-discriminatory coverage set out in the Social Security (Minimum Standards) Convention, 1952 (No. 102). Those Conventions have not been ratified by a large number of countries (40 ratifications for Convention No. 102 and only 23 for Convention No. 121). This is probably mainly due to the difficulty of implementing them.

(d) Vocational rehabilitation for disabled workers

49. The Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983 (No. 159) bans discrimination based on disability. Article 4 promotes special protective measures, such as workplace accommodation and transfers in order to enable persons with disabilities to continue to gain a living until such time as their disability affects their capacity to do a particular job or until they are too ill to work at all. The text has clear relevance for HIV/AIDS in the workplace, and the accompanying Recommendation No. 168 suggests measures starting with community-based care and highlighting strategies for disabled workers in rural areas, that could also guide HIV/AIDS policy.

50. The ILO document *HIV/AIDS and Employment*, states that:

> the time between the onset of HIV infection and the development of clinical AIDS, or at least up to the final stages when a worker has to cease work, frequently 10 years, is sufficiently long for infected workers to be able to retain their jobs. However, in view of their gradual deterioration in health, they need to take periods of sick leave that become longer; they also suffer from physical and psychological problems that are increasingly disabling. This means that it is necessary to adapt the working environment and job content to the progression of the disease.[13]

(e) Occupational safety and health

(i) Occupational Safety and Health Convention, 1981 (No. 155)

51. The Convention sets out basic requirements to protect workers, all of which are relevant to the field of HIV/AIDS, such as:

> Protective clothing and equipment at no cost to the worker;

The right of infected workers with reduced working capacity to be transferred to less onerous jobs;

The right of workers to leave a situation of imminent danger.

(ii) Occupational Health Services Convention, 1985 (No. 161)

52. The Convention requires ratifying States to adopt a comprehensive, coordinated national policy in the area of occupational health services. Its accompanying Recommendation No. 171 lists a number of measures for workplace safety which are relevant to HIV/AIDS:

Assurance that health surveillance is not used for discriminatory purposes;

Confidentiality of medical data (The ILO Code of Practice on the Protection of Workers' Personal Data can also be useful);[14]

Collaboration in finding alternative employment where transfer is required for health reasons;

Worker counselling on the results of health examinations;

Principle of "no cost to the worker" for the health-related facilities provided by the health service;

Advice that occupational health services should, as reasonably practicable, be made available to self-employed persons, such as informal sector workers.

(f) Freedom of association

53. The international labour standards dealing with freedom of association are tools that can be used to address HIV/AIDS in collective bargaining agreements and labour relations pacts. Of particular interest are the Right to Organize and Collective Bargaining Convention, 1949 (No. 98) and the Promotion of Collective Bargaining Convention, 1981 (No. 154), which require policies to encourage the free negotiation of terms and conditions of employment. These could include measures for the prevention of and protection against HIV/AIDS discrimination taken jointly by employers' and workers' organizations, leading to the signature of collectively binding agreements.

(g) Specific groups of workers

54. Several Conventions refer to specific groups of workers who, by the nature of their work, are at risk of HIV infection.

(i) Nursing personnel

55. The Nursing Personnel Recommendation, 1977 (No. 157) requires the provision of protective clothing and temporary transfer from jobs placing staff at risk.

(ii) Migrant workers

56. The Migration for Employment Convention (Revised), 1949 (No. 97) and the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143) address the inequalities that migrant workers face. The technical requirements set out in Convention No. 97, such as medical testing to assess migrants' and their family members' state of health, merit attention from the point of view of HIV/AIDS, as do the provisions of Convention No. 143 on migrant workers' human rights, in particular their right to equal treatment with nationals with respect to social security benefits (art. 6) or the right not to be expelled because of illness of the workers or of the family members authorized to accompany them (art. 8).

(iii) Seafarers

57. Regarding seafarers, the Conventions generally cover shipboard conditions, medical examinations and safe, healthy work environments. Of interest is the 1994 Maritime Conference resolution, which specifically refers to the need to include information on the prevention of HIV infection in the medical examinations of seafarers.

(iv) Part-time workers

58. The Part-Time Work Convention, 1994 (No. 175) also provides useful guidance for a policy to cover HIV-infected workers who have to change working time arrangements because of the onslaught of the disease. The Convention requires ratifying States to ensure that part-time workers receive the same protection as that accorded to comparable full-time workers in respect of, inter alia, occupational safety and health and discrimination in employment. It also requires implementation of the principle of proportionality in the areas of wages and social security conditions.

VII. ILO CODE OF PRACTICE ON HIV/AIDS AND THE WORLD OF WORK (forthcoming)

59. The ILO Code of Practice on HIV/AIDS and the World of Work will be submitted for adoption to a committee of experts in May 2001.

(a) Objective

60. The objectives of the Code are:

To promote decent work in the face of HIV/AIDS, by preventing and managing HIV/AIDS and its impact in the world of work and by creating a working environment in which discrimination based on HIV/AIDS status is eliminated;

To provide guidance to a broad spectrum of policy makers, organizations and social partners.

(b) Scope and application

61. It applies to the world of work in its broadest sense, including, for example, part-time work, unpaid work, and work in the informal economy.

(c) Key principle

62. The Code is based on key principles that reflect the ILO human rights-based approach in the fight against HIV/AIDS such as:

Non-discrimination ;

Gender equality ;

Social dialogue ;

Confidentiality;

Prevention;

Care and support.

(d) Provisions

63. The provisions of the Code cover a wide range of subjects:

Prevention through information and education;

Training;

Testing;

Care and support.

(e) Relation between the Code and the other ILO instruments that can be used in combating HIV/AIDS in the world of work

64. The Code is a method of implementation of human rights that supplements the legal framework of the Conventions and the principles contained in the Declaration. A code of practice is one of the best guarantees when legislation is inadequate. At the national level, such codes amount to a national contract binding employers' and workers' organizations to apply the same rules with regard to the employment of people with HIV/AIDS.

Notes

[1] Report of the Secretary-General to the Commission on Human Rights on the protection of human rights in the context of HIV/AIDS: human immunodeficiency virus (HIV) and acquired immunodeficiency syndrome (AIDS) (E/CN.4/2001/80).

[2] Report of the Director-General: "Decent work", International Labour Conference, eighty-seventh session, 1999, p.3.

[3] International Labour Conference, eighty-ninth session, 2001, report VI, p.6.

[4] Ibid., p.9.

[5] International Programme on the Elimination of Child Labour.

[6] HIV/AIDS: a threat to decent work, productivity and development, International Labour Office, Geneva, 8 June 2000, p.11.

[7] Ibid., p.10.

[8] One hundred and forty-seven ratifications as of 26 March 2001.

[9] Special Survey on equality in employment and occupation, 1996, para. 297.

[10] Ibid. para. 60.

[11] International Labour Office, The review of annual reports under the Follow-up to the ILO Declaration on Fundamental Principles and Rights at Work, GB.280/3/1, two hundred and eightieth session, Geneva, March 2001.

[12] International Labour Conference, eighty-second session, paras. 137-141, and in particular para. 142 with regard to HIV infection.

[13] N'Daba, L. and Hodges-Aeberhard, J.: HIV/AIDS and Employment, ILO (Geneva, 1998).

[14] Protection of Workers' Personal Data: An ILO Code of Practice (Geneva 1997).

Annex

RESOLUTION CONCERNING HIV/AIDS AND THE WORLD OF WORK

The General Conference of the International Labour Organization (Geneva, June 2000),

Recalling that HIV/AIDS is at present a universal pandemic that threatens all people, but also recognizing that it disproportionately impacts on economically and socially disadvantaged and excluded groups,

Recognizing that HIV/AIDS is a growing health problem, as well as a developmental crisis with disastrous consequences for the social and economic progress of many countries,

Noting with deep concern that, of the nearly 34 million people worldwide currently living with HIV/AIDS, 95 per cent are in the developing countries, that in African countries development gains of the past 50 years, including the increase in child survival and in life expectancy, are being reversed by the HIV/AIDS epidemic, and that HIV infection is increasing rapidly in Asia, particularly in South and South-East Asia, and in the Caribbean, and that it threatens the political, economic and social sustainability of these regions, while recognizing that in the rest of the world a complacent attitude cannot be adopted and efforts on prevention reduced,

Recognizing the effects of HIV/AIDS on the world of work: discrimination in employment, social exclusion of persons living with HIV/AIDS, additional distortion of gender inequalities, increased number of AIDS orphans, increased incidence of child labour, and the retention of older persons in the labour force,

Recognizing that HIV/AIDS threatens decent work in an all-embracing manner, and noting that HIV/AIDS has adversely impacted on economic growth and employment in all sectors of the economy, depleted human resources, challenged social security and health systems, and threatened occupational health and safety systems,

Recognizing that the spread of AIDS can be prevented, including through actions at the level of the workplace, and that it is possible, by a multidimensional, integrated, sustained and coordinated international response, to prevent its spread and protect those who live with it and its consequences, including the families and communities affected,

Noting that a number of important initiatives have already been undertaken, including those by the United Nations organs and specialized agencies,

Recognizing that the non-availability and limited access to HIV/AIDS-related drugs and treatments at affordable costs in developing countries also has further accentuated the spread of the disease in those countries,

Recalling the adoption by the International Labour Conference of relevant and related instruments, including the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), the Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983 (No. 159), the Occupational Safety and Health Convention, 1981 (No. 155) and the Occupational Health Services Convention, 1985 (No. 161),

Also recalling the adoption by the International Labour Conference of the Declaration on Fundamental Principles and Rights at Work, in 1998,

Noting the effect of some structural adjustment programmes on public health structures and services, education and social protection systems,

Recognizing the enormous potential of employers' and workers' organizations, in partnership with Governments, to contribute to the fight against the spread of HIV/AIDS and to support the needs of workers living with HIV/AIDS.

1. Calls upon the Governments of member States and, where applicable, employers' and workers' organizations to:

(a) Raise national awareness, including by involving other concerned groups as appropriate, particularly of the world of work, with a view to eliminating the stigma and discrimination attached to HIV/AIDS, as well as to fight the culture of denial, and thereby preventing the spread of HIV/AIDS;

(b) Strengthen the capacity of the social partners to address the pandemic;

(c) Strengthen occupational safety and health systems to protect groups at risk;

(d) Formulate and implement social and labour policies and programmes that mitigate the effects of AIDS;

(e) Effectively mobilize resources.

2. Requests the Governing Body of the International Labour Office to instruct the Director-General to:

(a) Continue and intensify, where appropriate, research on action to be taken and behaviours to be adopted in dealing with HIV/AIDS at the workplace;

(b) Present, within the framework of the discussion of the Programme and Budget for 2002-2003, a proposal regarding a meeting of experts which will develop international guidelines on action to be taken and behaviour to adopt on HIV/AIDS at the workplace;

(c) Collaborate with concerned international organizations in order to avoid duplication of efforts;

(d) Expand its capacity to deal with HIV/AIDS at the workplace, especially in its multidisciplinary teams;

(e) Undertaken research and surveys to determine the implications of HIV/AIDS for the world of work;

(f) Document and disseminate all useful information on national experiences including examples of good practices on HIV/AIDS at the workplace;

(g) Engage in advocacy and training on HIV/AIDS and the world of work;

(h) Strengthen the capacity of the social partner to formulate and effectively implement policies, programmes and activities at the national and enterprise levels.

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Fifty-seventh session
Item 18 of the provisional agenda

EFFECTIVE FUNCTIONING OF HUMAN RIGHTS MECHANISMS

Letter dated April 2001 from the Secretary of State for Foreign Affairs of the Dominican Republic addressed to the President of the Commission on Human Rights

I have the honour to submit herewith the report on the effective functioning of human rights mechanisms in the Dominican Republic.

I would be grateful if you would have this report* circulated as an official document of the fifty-seventh session of the Commission on Human Rights.

(Signed) RHADYS ABREU DE POLANCO
Ambassador

* The annex is reproduced in the form in which it was received, in Spanish and English only.

Annex

Report on the effective functioning of human rights mechanisms (Agenda item 18)

In 1948, the United Nations General Assembly adopted the Universal Declaration of Human Rights. In 1966, it adopted the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. It is now 53 and 35 years respectively since those instruments were adopted and 32 years since the adoption of the American Convention on Human Rights. Our country ratified the International Covenants on 19 January 1978 and the American Convention on Human Rights (also known as the Pact of San José) on 19 April 1978.

Today, there are still some countries that have not ratified those international human rights instruments; others have done so, but have not incorporated in their internal law the rights that they contain. In not a few of the States that do recognize fundamental rights in their constitutions or law, systematic, uncorrected violations occur. It could be said that the acceleration of history that is so apparent in other areas of human activity is less so as regards the recognition and guaranteeing of the fundamental rights of all human beings in the twenty-first century.

There is no denying that the activities of the organisms and specialized agencies of the United Nations and the Organisation of American States have, over the years, been a very important part of the process of creation and consolidation of international legal mechanisms for the protection of human rights, as has been the pressure by those bodies for recognition of those rights in domestic law and for ordinary people's effective enjoyment of them. There is, however, still a long road ahead, for every new historical event entails new threats to people's lives, security, equality and liberty.

Violations, including massive violations, of fundamental rights are not new; what is relatively recent, however, is the general feeling that they are abominations and outrages that are incompatible with human dignity. In this regard, we cannot but welcome the fact that their recognition in legislation and the existence of adequate mechanisms for safeguarding human rights have become the model of democratic legitimacy and are enabling the full and effective enjoyment of civil, political, economic, social and cultural rights.

It is certain that some human rights, whose classification as such derives from western culture, are viewed differently in other cultures or philosophies, but it is no less certain that there exists a common and indivisible nucleus of rights and duties of universal validity and scope. We might mention two: concern for human dignity, and the institutionalization, both internationally and within each country, of a series of effective safeguards. It must not be forgotten that human rights need not only to be defined, but also to be protected, and, as all lawyers know, safeguards are the most effective means of ensuring that a right has genuine force.

From this point of view, the international legal instruments need to be improved and supplemented so as to achieve a codification of human rights that recognizes the common nucleus and makes it explicit (clearly identifiable). It must also be possible to call to account those who infringe human rights and to extend the systems of safeguards so that everyone may avail themselves of them, both nationally and internationally.

It is essential for everyone that their countries' legislators, judiciary and governments see the securing of human rights as their responsibility. That is the most effective means of guaranteeing rights and it is only when it fails to function properly to correct errors that the international machinery should be brought into play.

Particularly since the Second World War, non-judicial safeguards institutions have come to join this judicial machinery.

The institution of ombudsman first appeared and developed in Sweden. From the outset, the ombudsman's mission was to watch closely over compliance with existing laws and standards as well as to monitor public servants' discharge of their duties. To that end, he was entitled to appeal to, and bring actions of any kind before the courts.

While this institution still has its original substance, it has, in each particular instance, been adjusted to the requirements of the social, political and legal systems of the societies that have adopted it. It is its inherent flexibility and features that have made that possible.

The office of ombudsman, whether it is held by one person or by a group, serves to restore the balance between the rights of the individual and the potentially ever wider powers of the authorities. Its raison d'être lies in the fact that traditional remedies such as self-monitoring by the central parliamentary authority and the courts, while essential, are often insufficient.

The institution of ombudsman is, I repeat, a recent phenomenon in our part of the world but it has been spreading rapidly. Today, ombudsmen are human rights defenders with an important role as monitors of administrative action that makes their office a flexible tool for resolving cases of violation of citizens' rights resulting from abuse of authority or failure by public officials to perform their duties.

The existence of a figure entitled to investigate any acts contrary to the standards by which his office is governed and conduct by officials that is incompatible with the ethics of public service enables the development of a culture of accountability for members of government and civil servants.

In addition to its function of protecting human rights, the institution of ombudsman has, in the countries which have adopted it, helped to strengthen the machinery for representation and communication between civil society and government.

The office of ombudsman provides everyone, citizens and foreigners, with a swift, informal, free and directly-accessible means of: submitting their complaints and protests regarding acts or omissions by any organ of government that may be thought to have breached their fundamental rights and public freedoms or constituted an offence; contributing, together with the institutions of the State and civil society, towards the guaranteeing within the context of the rule of law of the security of person and the human rights enshrined in article 8 of the Constitution of the Republic.

Its purpose is to assist in building a free, fairer society by fostering education in, and the defence, promotion and dissemination of human rights in the broadest sense of the term and by promoting the participation of all sectors of society.

Few topics are more closely linked to human rights than that of education and it is for that reason that on 19 August 2000, a mere two days after taking office, His Excellency Mr. Hipólito Mejía, President of the Republic, established by decree the Armed Forces Human Rights Institute, believing as he does that to furnish human rights education is to foster concord and solidarity between individuals and peoples and justice and freedom.

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Agenda item 18 (b)

EFFECTIVE FUNCTIONING OF HUMAN RIGHTS MECHANISMS

NATIONAL INSTITUTIONS AND REGIONAL ARRANGEMENTS

Note verbale dated 18 April 2001 from the Permanent Mission of the Islamic Republic of Iran to the United Nations Office at Geneva addressed to the secretariat of the Commission on Human Rights

The Permanent Mission of the Islamic Republic of Iran to the United Nations Office and other international organizations in Geneva presents its compliments to the secretariat of the Commission on Human Rights and at the request of the Iranian national institution for human rights, namely, the Islamic Human Rights Commission (IHRC) attaches the text of a statement entitled "An outline of the report by IHRC to the fifty-seventh session of the Commission on Human Rights".

It would be appreciated if the secretariat of the Commission on Human Rights could arrange to have this report* circulated as an official document of the ongoing session of the Commission on Human Rights.

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* Reproduced as received, in the language of submission only.

Annex

An outline of the Report
By

The Islamic Human Rights Commission IHRC

On

Recent Activities of IHRC for the promotion and protection of Human Rights In Iran

Written Statement on Item 18
"Effective functioning of Human Rights mechanisms: National institutions..."

Before
The 57th Session of the Commission on Human Rights

This is a brief summary of the Islamic Human Right Commission's (IHRC) report. It was originally published in Persian under the title of "The Frontlines of Operation". The report covers IHRC's activities during April to November 2000. However, access to the details of the report is possible through contact to IHRC's Secretariat based in Tehran.

IHRC is the Iranian National Institution established in 1995. Since its establishment, IHRC mobilized all human and material resources to launch its campaign on the promotion and protection of Human Rights, mainly in Iran and potentially and hopefully other areas of serious concern within the available human and material resources.

Verification and follow up process,

As a normal practice, IHRC receives all complaints, appeals and cases of Human Rights violations mainly from Iran, as well as other countries. At first stage all cases are duly registered and then the process of initial verification of minimum required information on follow up will follows.

Appeals and cases on violation of Human Rights in Iran are normally brought up to the attention of the Commission, mainly, by means of following methods:

1. Petitioners have sent their appeals from inside Iran and have applied for IHRC's action or support,

2. Appeals and cases on violation of Human Rights received from external sources targeting specific cases of violation of Human Rights in Iran that requires due attention or follow up action by the IHRC,

3. In particular cases, the Commission itself, launches investigation into the new and uncovered areas of grave concern on the situation of Human Rights in Iran that are not normally brought up to the attention of IHRC by other sources.

The Commission has further developed its activities to the following areas:

(a) Development of the Human Rights Defenders Network,
(b) Establishment and development of an encompassing Watchdog System for monitoring the situation of Human Rights,
(c) Research, analysis and education of human rights, and,
(d) Exchange of views and cooperation with other national institutions, NGOs

and international organizations.

- IHRC has established contacts with the Office of High Commissioner on a regular basis, with a view to exchange information and expand cooperation in the field of human rights in Iran. In this context, it is worth referring to the recent meeting between Mrs. Robinson and the Commission's officials in Tehran.

- During the course of that particular period, IHRC launched investigation into 835 cases of violation of Human Rights in various countries all over the world.

- The Commission has received 2438 letters on alleged cases of violation of Human Rights in Iran from foreign sources including NGOs, during April to November 2000. Almost, in all of those cases, the Commission has already been informed by internal sources.

- In 160 specific occasions, IHRC has offered legal assistance to the people that their rights were at stake.

- Legal experts of IHRC participated, as observers in a number of crucial court hearings on violation of Human Rights in Iran. After careful consideration of all circumstances IHRC, has submitted its recommendations to the relevant bodies. Due to the lack of clarity or response in some certain cases, IHRC has alternatively recoursed to publication of its views and recommendations.

- General Assembly of HRIC has managed to discuss and analyze in its annual sessions, the quality of compliance of the activities of the Judiciary, the Executive and the Islamic parliament in Iran, with Human Rights norns and standards.

Further detailed information on appeal cases brought up to the attention of the Legal Affairs and Appeal Department of IHRC coupled with follow up outcomes by the same Commission (during April to September 2000) is attached herewith. Enclosed statistics, in particular, indicates alleged cases of violation of Human Rights by Governmental and Non-Governmental organizations and institutions in Iran.

Table 1-1, Illustrates the statistics on appeals bought up to the attention of the Legal Affairs

and Appeal Department of IHRC through internal sources, as well as follow-up outcomes by IHRC during April to September 2000.

No	*Province*	*Appeals brought up to ICHR in spring 2000*	*Appeals brought up to ICHR in summer 2000*	*Follow up outcome by ICHR in spring 2000*	*Follow up outcome by ICHR in summer 2000*
1	East Azerbaijan	7	3	3	1
2	West Azerbaijan	6	1	3	-
3	Ardebil	5	-	6	0
4	Isfahan	14	4	1	3
5	Boushehr	0	-	-	-
6	Tehran	55	53	16	34
7	Chaharmahal & B...	8	11	4	9
8	Khorasan	11	13	3	11
9	Khuzestan	14	7	6	6
10	Zanjan	2	-	-	0
11	Eilam	3	2	0	1
12	Semnan	1	2	1	1
13	Sistan & Balouch.	4	15	2	3
14	Fars	9	1	4	8
15	Qom	1	0	0	1
16	Ghazvin	-	-	-	-
17	Kordestan	4	1	2	1
18	Kermanshah	4	4	1	3
19	Kerman	-	2	0	1
20	Khokilouye & B...	-	0	-	-
21	Ghilan	3	2	2	2
22	Mazandaran	3	1	1	0
23	Markazi	1	2	0	2
24	Hormozghan	0	2	0	1
25	Hamedan	1	1	2	1
26	Lorestan	6	2	2	1
27	Yazd	3	2	2	-
28	Gholestan	3	3	2	-
29	Unknown Whereabouts	13	10	5	7
30	Total	184	148	65	102

Table 1-2, Illustrates statistics on appeals concerning violation of Human Rights by governmental organizations and institutions in Iran, bought up to the attention of the Legal Affairs and Appeal Department of IHRC, through internal sources as well as follow-up outcomes by IHRC during April to September 2000,

No	*Organizations or Bodies accused of Human Rights violation In Iran*	*Appeals brought up to ICHR in spring 2000*	*Appeals brought up to ICHR in summer 2000*	*Follow up outcome by ICHR in spring 2000*	*Follow up outcome by ICHR in summer 2000*
1	Guild Unions	1	2		0
2	Domestic Legal Bodies	11	9	1	4
3	Foreign Legal Bodies	2	-	10	-
4	Bonyad Mostazafan Va Janbazan	2	2	1	-
5	Universities & higher education bodies	1	1	-	0
6	Imam's	1	3	1	1
7	PGCC Compensation fund	30	32	-	10
8	Prisons Organization	3	1	22	-
9	Registration Office	1	0	1	0
10	Social Security Organization	1	2	1	1
11	Municipalities	1	1	0	-
12	Imam's Relief Ct	1	-	1	-
13	Passport Office	1	-	0	-
14	Court of Article 14 of the Constitution	1	-	0	-
15	Ministry of Intelligence	2	7	2	2
16	Ministry of Industries	1	1	-	1
17	Ministry of Cooperation	1		0	
18	Ministry of Transportation	2	1	2	-
19	Ministry of Foreign Affairs	1	-	1	-
20	Ministry of Health	2	3	2	2
21	Ministry of Agriculture	1		1	
22	Ministry of Oil	1	1	27	-
23	Judiciary	37	48	3	21
24	Armed forces	6	4	0	2
25	Glass & Gas Co.	1		1	1
26	Int. Organizations	1		1	
27	Unknown Bodies	32	40	25	16

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Agenda item 19

ADVISORY SERVICES AND TECHNICAL COOPERATION IN THE FIELD OF HUMAN RIGHTS

Letter dated 24 April 2001 from the Permanent Representative of Ethiopia to the United Nations Office at Geneva addressed to the Chairperson of the Commission on Human Rights

I have the honour to attach herewith the position of the Ethiopian observer delegation to the fifty-seventh session of the Commission on Human Rights on the statement delivered by the representative of the International Movement for Fraternal Union Among Races and Peoples on agenda item 19 entitled "Advisory services and technical cooperation in the field of human rights".

I should be grateful if this letter and the attachment* are circulated as an official document of the current session of the Commission under agenda item 19.

Accept, Mr. Chairman, the assurances of my highest consideration.

(Signed): Fisseha YIMER
Ambassador
Permanent Representative

* Reproduced as received, in the language of submission only.

GE.01-13569 (E)

Annex

The Ethiopian Delegation has found it necessary to respond to the unbalanced and biased statement by representative of the NGO, namely, International Movement for Fraternal Union Among Races and Peoples, on the recent incidents in Addis Ababa, Ethiopia. This has been done under the devious cover of the item on Advisory Services and Technical Cooperation in the field of human rights.

The statement to say the least lacks elementary objectivity and is a gross misrepresentation of the facts. Instead of exercising due caution in commenting on a highly complex situation, the representative of the NGO has regrettably chosen to echo the position of certain organisations, in particular those claiming to advance the cause of human rights, on the causes and consequences of the incidents in question.

The recent tragic situation in Addis Ababa was the result of instigation by anti-peace groups and organisations resulting in acts of arson, robbery and total chaos in parts of the city.

Consequently, since the need to maintain peace and security for the public at large was overwhelming, the involvement of the police to pacify the situation was absolutely urgent. Nevertheless, the representative of the NGO in question in apportioning blame for the incidents has conveniently chosen to echo the propaganda of certain organizations in Ethiopia who in all likelihood had a role in inciting the incidents in the first place for their own political objectives.

In any case, coming as it does from the NGO and its representative with their well-known politically motivated positions against the Ethiopian Government, the Ethiopian delegation is not at all surprised by this latest diatribe from the organization.

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Agenda item 17 (a)

PROMOTION AND PROTECTION OF HUMAN RIGHTS: STATUS OF THE INTERNATIONAL COVENANTS ON HUMAN RIGHTS

Letter dated 27 April 2001 from the Permanent Representative of Saudi Arabia to the United Nations Office at Geneva addressed to the Chairperson of the Commission on Human Rights

On behalf of the delegations listed in the annex,* I have the honour to request that the attached joint statement be circulated as an official document of the fifty-seventh session of the Commission on Human Rights under agenda item 17 (a).

(Signed) Abdulwahab ATTAR
Ambassador
Permanent Representative

* Reproduced as received, in the language of submission only.

GE.01-13662 (E)

Annex

JOINT STATEMENT ON THE QUESTION OF THE DEATH PENALTY

(List of Co-sponsoring Delegations as in Annex)

We would like to place on record our disassociation from Commission on Human Rights resolution E/CN.4/2001/L.93 on the question of the death penalty for the following reasons:

(a) There is no international consensus that capital punishment should be abolished. Article 6, paragraph 2, of the International Covenant on Civil and Political Rights states that "sentence of death may be imposed only for the most serious crimes". This view was reflected in the joint statement contained in the document E/CN.4/2000/162, in which 51 delegations disassociated themselves from a Commission on Human Rights resolution 2000/65. This view was also reflected in (i) the joint statement contained in the ECOSOC document E/1999/113 in which 50 delegations disassociated themselves from the Commission on Human Rights Resolution 1999/61, (ii) the joint statement contained in document E/1998/95 in which 54 delegations disassociated themselves from a Commission on Human Rights resolution 1998/8, (iii) the joint letter contained in document E/CN.4/1998/156 in which 51 delegations expressed their reservations prior to the adoption of the Commission on Human Rights resolution 1998/8, and (iv) the joint statement contained in document E/1997/106 in which 34 delegations disassociated themselves from a similar Commission on Human Rights resolution 1997/12.

(b) At the 54th UNGA in New York, a large majority of delegations disapproved of a draft resolution on the death penalty tabled by the EU. As a result, its co-sponsors decided to withdraw the EU draft resolution.

(c) In his statement to the plenary of the Rome Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court on 17 July 1998, the President of the Conference declared that the debate at the Conference on the issue of which penalties should be applied by the Court showed that there is no

international consensus on the inclusion or non-inclusion of the death penalty, and further that not including the death penalty in the Rome Statute would not in any way have a legal bearing on national legislations and practices with regard to the death penalty, nor should it be considered as influencing, in the development of customary international law or in any other way, the legality of penalties imposed by national systems for serious crimes.

(d) Capital punishment has often been characterised as a human rights issue in the context of the right of the convicted prisoner to life. However, this must be weighed against the rights of the victims and the right of the community to live in peace and security.

(e) Every State has an inalienable right to choose its political, economic, social, cultural and legal systems, without interference in any form by another State. Furthermore, the purposes and principles of the Charter of the United Nations, in particular, Article 2, paragraph 7, clearly stipulates that nothing in the Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any State. Accordingly, the question of whether to retain or abolish the death penalty should be carefully studied by each State, taking fully into account the sentiments of the people and the state of crime and criminal policy. It is inappropriate to make a universal decision on this question or to propose such action in the forum of an international organisation.

Annex

List of co-signatories: Joint Statement on the Question of the Death Penalty

1 People's Democratic Republic of Algeria
2 Antigua and Barbuda
3 State of Bahrain
4 People's Republic of Bangladesh
5 Barbados
6 Republic of Botswana
7 Brunei Darussalam
8 Republic of Burundi
9 People's Republic of China
10 Islamic Federal Republic of the Comoros
11 Arab Republic of Egypt
12 Republic of Equatorial Guinea
13 State of Eritrea
14 Federal Democratic Republic of Ethiopia
15 Republic of Fiji
16 Gabonese Republic
17 Republic of Ghana
18 Grenada
19 Republic of Guyana
20 Republic of Indonesia
21 Islamic Republic of Iran
22 Republic of Iraq
23 Jamaica
24 Japan
25 Hashemite Kingdom of Jordan
26 Republic of Kenya
27 Democratic People's Republic of Korea
28 State of Kuwait
29 Lao People's Democratic Republic
30 Republic of Lebanon
31 Republic of Liberia
32 Socialist People's Libyan Arab Jamahiriya
33 Malaysia
34 Republic of Maldives
35 Islamic Republic of Mauritania
36 Mongolia
37 Union of Myanmar
38 Federal Republic of Nigeria
39 Sultanate of Oman

40 Republic of the Philippines
41 State of Qatar
42 Republic of Rwanda
43 Saint Lucia
44 Saint Kitts and Nevis
45 Kingdom of Saudi Arabia
46 Republic of Sierra Leone
47 Republic of Singapore
48 Republic of the Sudan
49 Republic of Suriname
50 Kingdom of Swaziland
51 Arab Republic of Syria
52 United Republic of Tanzania
53 Thailand
54 Republic of Togo
55 Kingdom of Tonga
56 Republic of Trinidad and Tobago
57 United Arab Emirates
58 Socialist Republic of Vietnam
59 Republic of Yemen
60 Republic of Zimbabwe

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PROMOTION AND PROTECTION OF HUMAN RIGHTS: STATUS OF THE INTERNATIONAL COVENANTS ON HUMAN RIGHTS

Letter dated 27 April 2001 from the Permanent Representative of Saudi Arabia to the United Nations Office at Geneva addressed to the Chairperson of the Commission on Human Rights

Corrigendum

Annex

To the list of co-signatories to the joint statement on the question of the death penalty, add the following:

40. The Commonwealth of the Bahamas

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RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND ALL FORMS OF DISCRIMINATION

Note by the Chairman

1. At its fifty-seventh session, the Commission on Human Rights held a special debate on the theme of tolerance and respect on Monday, 26 March 2001.

2. Before beginning the special debate on that day, the Commission endorsed the recommendations of the Bureau and, although no formal result of the debate was expected, the conclusions of the panellists, and in particular the Chairman, were of great interest in the light of the forthcoming World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance.

3. The conclusions reached by the participants in the debate are set out in the summary records (see documents E/CN.4/2001/SR.11-13).

4. The conclusions prepared by the Chairman are annexed to the present note.

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Annex

CONCLUSIONS OF THE CHAIRMAN OF THE COMMISSION ON HUMAN RIGHTS CONCERNING THE SPECIAL DEBATE HELD BY THE COMMISSION AT ITS FIFTY-SEVENTH SESSION ON THE THEME OF TOLERANCE AND RESPECT

Background to the special segment

1. Following the Commission's practice over the past four years of selecting a topic for priority treatment, the special debate on tolerance and respect was held on 26 March 2001.

2. After the opening statements by Mr. Leandro Despouy, Chairman of the Commission, and Ms. Mary Robinson, United Nations High Commissioner for Human Rights, on the theme "Tolerance and respect", the sub-themes of "Reconciliation", "Social exclusion", "Religion", "Gender", "Migrants" and "Education" were addressed by the following speakers: Archbishop Desmond Tutu,[1] Senator Aden Ridgeway,[2] Sheikh Sahib Ben Sheikh,[3] Ms. Nafis Sadik,[4] Father Dominique Peccoud[5] and Ms. Cecilia Braslavsky.[6]

3. The topics were developed at three meetings of the Commission. Three statements were made at the morning meeting, followed by a debate in which governmental delegations of member States, observers and NGOs participated. The same procedure was followed at the afternoon meeting, and a large part of the last night meeting was devoted to the concluding observations of the panellists and the Chairman's own conclusions.

4. The first observation emerging from the debate relates to the importance, relevance and topicality of the theme selected, since it falls within the context of the United Nations Year of Dialogue among Civilizations, proclaimed by the General Assembly, and the debate was held shortly before the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, to be held in Durban (South Africa) in September 2001. Racism and xenophobia are extreme expressions of intolerance; consequently, respect and tolerance are attitudes that should be promoted in order to prevent such conduct and to attain higher forms of social harmony.

5. Tolerance is the minimum level of human behaviour to be expected, but respect requires something more: positive action based on recognition of the value of the human being and his dignity, which is common to all who live on this earth. This is recognized in the Preamble to the Universal Declaration of Human Rights.

6. As stated by Ms. Robinson, a key element in preventing racism, xenophobia and intolerance is to try to understand why the differences between human beings are frequently viewed as a threat. Intolerance generally originates from fear of the unknown and fear of what is different. Fear of others, fear of the loss of personal security and even, occasionally, fear of economic competition. For this reason, we must strive to reduce the harmful consequences of fear to the fullest extent, seeking innovative mechanisms in order to eliminate it.

7. The special segment was held in a harmonious and constructive atmosphere, to which everyone - panellists, member and non-member States, and NGOs - was able to make a contribution on an equal footing. The fact that no reminder or appeal was necessary concerning speaking time or the content of statements proved that it is possible to conduct a fruitful dialogue between the various human rights players on such a sensitive and complex theme. These lessons are particularly meaningful in the light of the Durban conference and the preparatory work currently under way.

I. RESPECT, TOLERANCE AND NATIONAL RECONCILIATION

8. Tolerance and respect are substantive elements in preventing the degradation which is the culmination of discrimination and intolerance. Abstention from vengeance, even in the face of those who have practised it, was the theme of the address by Archbishop Desmond Tutu, who described the historic experiment in national reconciliation currently under way in his country following the abolition of the racist apartheid regime.

9. In his captivating address, Monsignor Tutu made a number of points which sometimes appear to be forgotten: if we applied the saying "an eye for an eye, a tooth for a tooth" literally, all of us would end up blind. We have been born to live together and to enjoy the company of others. A person exists as a person through other persons. Someone who does harm also harms himself. Complementarity and diversity are two concepts inherent in nature, and the richness of the universe seen from the standpoint of diversity is immense. Monsignor Tutu reminded us that, irrespective of our condition, the common and universal factor was human dignity.

10. Perhaps his main point was the significance acquired by reconciliation in the South African national process: the decision to promote reconciliation and not vengeance as the chief tool for emerging from the former terrible situation enabled the people not to remain rooted in the past. "No to resentment, no to revenge" were his principal watchwords.

11. All this is of particular value in that it came from someone who, in addition to being a philosopher, humanist and religious leader, experienced the horrors of apartheid at first hand.

12. International solidarity and, in particular, the work done by certain bodies such as the Commission on Human Rights in the fight against the apartheid regime were of undeniable importance. Thanks to the struggle of the South African people and the international community, Nelson Mandela was released and later succeeded in becoming President.

13. To forgive does not mean to forget or to accept what has been done to us. To forgive means refraining from exercising the possibility of avenging oneself. And it does not mean impunity, since in South Africa the amnesty only applied to crimes for which the perpetrators publicly acknowledged responsibility.

14. In addition, in the South African experience, the subject of redress was always linked to questions of a spiritual nature, to knowledge of the truth and to reconciliation, rather than to financial redress in the traditional sense of the term. What the victims and their relatives asked

for was for a street to be named after a victim or a gravestone to be provided for a son - in other words, things which in themselves had the value of staunching the grief caused by what had been an historic tragedy; fundamentally, the important point was to look to the future.

15. Lastly, he made an appeal which moved all who heard it: an appeal to dream God's dream. It is possible to dream, he said, that Palestinians and Jews will live in peace in their respective homes.

II. TOLERANCE, RESPECT AND SOCIAL EXCLUSION

16. In order to gain an understanding of the difficulties confronting the indigenous populations in the effective exercise of their human rights, the statement by Senator Ridgeway, the only Australian Aboriginal member of Parliament, who has had long experience in the struggle of the indigenous peoples, was of particular significance.

17. He referred to the efforts being made by the Australian Government through the Council for Aboriginal Reconciliation, and to the difficulties arising both from the existing legislation and from the actual socio-cultural situation in Australia.

18. It clearly emerged from his observations that, in the face of the difficulties confronting the vulnerable groups, groups which had been historically excluded, marginalized or ill-treated, the problem was not merely the need to recognize their rights, but to guarantee the effective exercise of those rights. To that end what was needed was not only legal provisions, but also an attitude on the part of the various social players that would permit and promote the exercise and enjoyment of rights on an equal footing. In all this there undoubtedly existed a cultural challenge, in addition to questions of a legal nature.

19. In order to end the existing inequality, it was important to pay particular attention to certain policies which, instead of promoting better performance and a break with the bonds of subjection, accentuated dependency. For that reason, it was of decisive importance to stimulate training and support for the development of the inherent capacities of the populations who had suffered discrimination, and thereby bring about their social integration and access to the full exercise of human rights.

20. Agreeing with Monsignor Tutu in his conclusions, Senator Ridgeway stated that the process of reconciliation was fundamental for, in its absence, the past was carried over into the present. Thus, the pain of discrimination was projected towards the future. He also agreed on the sensitive question of financial compensation. He emphasized the capital importance of recognition of the truth with respect to what had actually happened. With regard to compensation, he stressed the importance of associating the victims in the consideration of all questions relating to them.

21. He laid great stress on the importance of respecting diversity, pluralism and inter-generation projects as central factors to be considered in education and culture. At the same time, he emphasized the need for respect and tolerance and stressed the word "understanding", a concept which was of great significance for harmonious coexistence.

22. He highlighted the value of cultural identity and the importance of education, and cited an example which provided encouragement for everyone, namely, the fact that a member of the indigenous population had taken part in the Sydney Olympics. The thrust of his message was recognition of the fact that that was not only possible for the Aboriginal peoples themselves, but was also a significant development in his country's image in the eyes of the world.

23. In conclusion, he formally appealed for a declaration on the rights of indigenous peoples to constitute the principal benchmark for the objectives embodied in those peoples' struggle at the global level.

III. TOLERANCE, RESPECT AND RELIGION

24. In a significant statement, Sheikh Sahib Ben Sheikh, the Mufti of Marseille (France), speaking on the basis of what may be termed an ethic common to all mankind - over and above religion, called for respect for man as such. Basically, he wished to transmit the conviction that a belief cannot be imposed. That was closely connected with the problems currently experienced with regard to religious questions.

25. All listeners undoubtedly appreciated his self-critical observation that some acts of barbarism committed in the Muslim world could not be concealed and could not escape stigmatization, because those acts of barbarism were suffered by all, and primarily Muslims themselves. He contributed conviction and optimism, since the dialogue between religions, faiths or beliefs was one of the areas where discussion and debate on the subject of human rights could make fruitful progress, and that could avert polarization where religious questions were sometimes intermingled with politics.

26. He also spoke of the universal religion which is Islam, the conveyor of extraordinary values. He further stated that when it conveyed values relating to justice, those values could not be filed away in some archive of history, but must be brought up to date. He made an appeal which all of us can echo, because it was precisely along the lines of our work, in the quest for tolerance.

IV. TOLERANCE, RESPECT AND GENDER

27. Ms. Nafis Sadik emphasized the impact of the issue of women around the world and, at the same time, the negative effects on human rights of the numerous acts of discrimination against women, who made up such a high percentage of the population. Women were currently in a situation of disadvantage compared with men, in spheres such as education, employment or health. In order to illustrate all the difficulties, she recounted her own experience as a woman during her long international career and in the area of communication.

28. The gender question could not be reduced to the term "women" but covered the broader sphere of the relationship between men and women, girls and boys, in other words, recognition of two different people between whom there should not exist an unjustified hierarchy, but a relationship of genuine equality and complementarity.

29. Some examples showed that very often women, apart from the unfavourable situation in which they found themselves as victims of sex-related discrimination, saw their situation aggravated by extreme poverty or being a refugee, migrant or displaced person, circumstances which might be added to racial discrimination.

30. Ms. Sadik took as her starting-point the premise that no society can allow a group to be discriminated against. Accordingly, any discriminatory practice must be interpreted as an abnormality or distortion. Evidence of that view was to be found in the many positive adaptations and changes which had taken place in recent years. Thus, for example, slavery, rape and incest were disappearing as practices accepted by some cultures and were becoming actual crimes carrying penalties.

31. She stressed the existence of essential values common to all cultures and civilizations which must be supported and safeguarded. She advocated a number of very useful practical measures: the protection of women, reproductive health, protection against violence, full education, and a break with the stigmas and stereotypes which damaged the relationship between the sexes and directly harmed women.

32. She highlighted the importance of establishing a constructive dialogue on the rights of women, the need for their incorporation in national legislation and recognition of international instruments such as the Convention on the Elimination of All Forms of Discrimination against Women.

33. She considered that the gender dimension should be incorporated in all questions taken up in the United Nations, since it constituted a problem which ran through all of them. In addition, the power ratio which frequently underlay relations between the sexes should not be disregarded. There was every indication that a positive change was imminent, proof being that those questions were today the subject of public discussion, as was borne out by the present forum.

V. TOLERANCE, RESPECT AND MIGRANTS

34. Father Dominique Peccoud, ILO Special Adviser, raised another very topical problem: immigrant populations. He too sounded an alarm about the circumstances that encourage or in some way provoke migration.

35. Globalization constituted one of the factors which had the greatest impact on the phenomenon of migration. The new information and communication technologies had been opening a great "window" through which the poor populations saw the wealth which accompanied frenetic consumerism. That explained why very many women and men in poor countries sought to emigrate to rich countries in the hope of finding work and earning more for themselves and their families.

36. Reality showed that that world of opportunity frequently did not live up to its promise since a high percentage of would-be migrants were victims of trafficking networks, or unscrupulous recruitment agencies or employers who subjected migrants to the worst forms of

exploitation and to marginalization and discrimination in the country of immigration. But it was not only financial motives that drove people to emigrate, but also the socio-economic and socio-political conditions in their countries, and very often those factors were compounded by religious fundamentalism and/or inter-ethnic or ideological clashes.

37. He explained how social discrimination may become a powerful factor in the destabilization of a whole society. Among the principal remedies, he mentioned the importance of recognizing the human dignity of migrants and accepting their integration in sectors where that was possible and necessary for the receiving countries. In that connection, he emphasized the crucial role of the media.

38. He denounced the frequent political manipulation of the subject of immigration and invited participants to undertake a kind of democratic lobbying in order to induce countries to ratify the 1990 Convention on the Protection of the Rights of All Migrant Workers and Members of their Families and the relevant ILO conventions.

VI. TOLERANCE, RESPECT AND EDUCATION

39. In her introduction, Ms. Cecilia Braslavsky gave a number of examples of covert discrimination and showed the extent to which it entered social and educational patterns, often sowing the seeds of intolerance or lack of respect. She highlighted equality of opportunity as one of the fundamental prerequisites for education in respect and tolerance, the actual quality of education and specific education on both subjects being of the highest importance. That was achieved not only through major education plans, but also by generating a positive synergy between government authorities, family, school, media, business, etc.

40. She emphasized the content of education, given that education frequently departed from values and history, giving preference to technical or functional subjects such as knowledge of computing or languages and neglecting essential questions such as the understanding of phenomena. She also underlined the need to move towards an education in values in order to train sensitive and analytical human beings, able to recognize a positive value in diversity. She placed those guidelines within the context of a cultural change, in which education, both formal and informal, constituted one of the main instruments of genuine citizenship.

VII. CONCLUSIONS

41. The statements by participants confirmed and elaborated on those main ideas, with regard to both their content and the efforts being made in the implementation of policies at the national level.

42. From the standpoint of human rights, it is important to note, in the light of the various statements by participants, that both discrimination and exclusion may result from subjective (intolerance, prejudice) and systemic factors (extreme poverty, deprivation). In both cases, what is serious is that each of these factors has a negative effect on the others thereby generating a descending spiral in which the factors follow each other in a chain.

43. Thus, people living in poverty, for example, suffer not only financial problems, but also difficulties with regard to work, health, education, integration, the exercise of their civil and political rights, etc. The important point is to establish the way in which each of these unfavourable factors negatively affects the others, giving rise to a chain of deprivation which, as it accumulates, tends to project itself throughout the whole life of the persons affected and to be transmitted from generation to generation.

44. It is essential to unravel the perverse logic which contributes to discrimination and exclusion, since what is involved is absolute deprivation of the exercise of human rights.

45. Thus, for example, through slavery the individual was assimilated to an object, a mere tool. But as the individual recovered the exercise of rights, the human being emerged in all his splendour and greatness. Similarly, when the coloured people of South Africa regained the exercise of their human rights, there emerged a nation, a people which has been able to offer one of the most significant examples for mankind. That enables us to say, without aspiring to a great utopia and as the first participant in the special debate invited us to do, that it is possible to "dream God's dream".

46. The statements by the participants have made it clear that mankind is fully aware of the negative consequences for modern societies of racial discrimination, racism, xenophobia and intolerance. Both the tragedies of the past (such as Nazism and apartheid) and those which have occurred very recently (in the Balkans and the Great Lakes region) had a profound impact on human rights as a whole. They showed that discrimination was not merely the denial of a fundamental right such as the right to equality, but basically the gateway for many other violations, often culminating in deprivation of the right to life.

47. There is also awareness of the factors which generate and propagate those sinister phenomena. The special segment has shown the extent to which mankind has remedies to ward them off. The great challenge today is to put them into effect, and there is no doubt that, for that to take place globally, it is necessary to engage in an inter-generation and inter-cultural dialogue encompassing all civilizations. Durban thus represents an outstanding opportunity for that purpose. The special segment has indicated in advance that this is possible, and that Governments, intergovernmental organizations and non-governmental organizations can hold constructive dialogues. If these conclusions reaffirm this conviction, they will have achieved their purpose.

Notes

[1] Nobel Prize winner in 1984, President of the South African Truth and Reconciliation Commission in 1995.

[2] Member of Parliament representing indigenous persons in the Australian Federal Parliament.

[3] Mufti of Marseille (France), Specialist in Islamic studies and the Universal Declaration of Human Rights.

[4] Special Adviser to the Secretary-General, Executive Director of the United Nations Population Fund.

[5] Special Adviser, Bureau for External Relations and Partnerships, ILO.

[6] Director, International Bureau of Education, UNESCO, at Geneva.

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CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTIONS OF: DISAPPEARANCES AND SUMMARY EXECUTIONS

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD

Letter dated 24 April 2001 from the Minister Counsellor, Chargé d'affaires a.i. of the Permanent Mission of the Federal Republic of Yugoslavia to the United Nations Office at Geneva addressed to the Chairman of the Commission on Human Rights

I have the honour to enclose herewith the Aide Memoire* on missing persons prepared by the Federal Government of the Federal Republic of Yugoslavia.

I should like to ask you kindly to have it published as an official document of the fifty-seventh session of the Commission on Human Rights under agenda items 11 (b) and 9.

(Signed): Mirjana Radic

Minister Counsellor
Chargé d'affaires a.i.

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* Reproduced as received, in the language of submission only.

AIDE MEMOIRE

1. The FR of Yugoslavia pays particular attention to solving the issue of missing persons in former Yugoslavia, including that of the most recent disappearances and abductions in Kosovo and Metohija, which is under special administration by the United Nations in keeping with the SC resolution 1244 (1999).

   Abductions, disappearances and unlawful deprivation of freedom of all persons in the territory of the former Yugoslavia, regardless of their national origin, stand as the most sensible emotional, social, humanitarian, but also political issues. The process of reconciliation, establishment of multiethnic societies based on democracy and the rule of law will largely depend on the resolution of these issues.

   The new democratic authorities of the FR of Yugoslavia are determined to fully contribute to the resolution of these issues in cooperation with all countries concerned, international governmental and non-governmental organizations, associations of citizens dealing with such issues.

   It is as well our moral and legal duty towards families of missing persons who are entitled to learn about the fate of their closest ones. Withholding information on abducted and missing persons represents a flagrant violation of the human rights of their family members, while abductions, imprisonment in secret prisons and liquidations of the abducted represent crimes for which all perpetrators have to be accountable for under international norms and national legislation.

2. The FR of Yugoslavia rightfully expects a much more active engagement by the international community with regard to the most recent cases of abductions, disappearances and secret prisons in Kosovo and Metohija, given the special responsibility of the United Nations, in compliance with SC resolution 1244. At the same time, by so doing we do not wish to downplay the importance of the release of ethnic Albanians from prisons.

   We wish to recall that on 26 February 2001 the Federal Assembly of the FR of Yugoslavia adopted the Amnesty Law. This was done despite daily armed attacks and provocations by Albanian extremists and terrorists in Kosovo and Metohija and Southern Serbia. The new democratic authorities of the FR of Yugoslavia deem this to be one of the major steps taken towards establishment of lasting peace in the region and in Kosovo and Metohija. As a good-will gesture, the FR of Yugoslavia has opened the process of revision of criminal procedures and sentences pronounced against a number of persons of Albanian nationality charged with terrorism.

   The public opinion in our country and families of missing and detained Serbs, Montenegrins and other Yugoslav citizens follow with undivided attention these steps taken by the Yugoslav Government while at the same time requesting an urgent resolution of the fate of their missing relatives and fellow-countrymen.

   Numerous were the occasions when we have communicated information collected on missing persons. Only during the period following the deployment of KFOR and UNMIK in Kosovo and Metohija, on 10 June 1999, over 1100 persons of non-Albanian origin went missing or were abducted.

The most recent information indicate that among the missing there are 972 Serbs and Montenegrins, of which 190 women, 18 non-identified persons and 110 persons belonging to other nationalities. Our competent authorities dispose of detailed lists of all persons reported missing.

In the course of the same period, 30 children were reported missing or were killed. This represents the most flagrant violation of the Convention on the Rights of the Child, and in particular the violation of the right to life, to safe childhood and the right to normal development of children in peace.

Also unknown is the fate of several dozens of soldiers of the Yugoslav Army and members of the Ministry of the Interior, who went missing in conflicts with Albanian terrorists prior to the deployment of international forces. Numerous witnesses have confirmed allegations on prisons kept by the KLA, but KFOR and UMIK have not had any success in discovering their locations. Concurrently, the FR of Yugoslavia rightfully expects UNMIK and the international community to engage more actively in solving these issues, in accordance with their obligations arising from the SC resolution 1244.

3. The same goes for the problem of missing persons in Croatia. In accordance with provisions of the Agreement on cooperation in finding the missing persons, signed by ministers of the two respective countries in November 1995, and of the Protocol on cooperation, signed in 1996, we expect that all open issues in this field be dealt with in agreement by both parties, in particularly as concerns 2075 persons reported missing in military operations " Flash" and " Storm" conducted by the Croatian army, including exhumations and identification of Serb victims in mass graves.

Finally, we wish to underscore once again that it is very important to find a solution to the issue of missing persons not only so as to improve the overall situation of human rights in Yugoslavia but in other countries of the former Yugoslavia as well, but also to continue the process of building good-neighbourly relations and mutual confidence throughout the region. In accordance with its commitment to start resolving even the most flagrant violations of human rights, the new democratic authorities of the FR of Yugoslavia stand ready and open to discuss all aspects of the missing persons issue with representatives of countries concerned, international community and associations on missing persons with a view to achieving effective results.

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